



BILLING CODE: 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XB094

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Sturgeon Research in the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; receipt of application for letter of authorization; request for comments and information.

SUMMARY: NMFS has received a request from the U.S. Fish and Wildlife Service (USFWS) for authorization to take small numbers of marine mammals incidental to conducting sturgeon research in the Gulf of Mexico, over the course of 5 years from the date of issuance. Pursuant to regulations implementing the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of USFWS's request for the development and implementation of regulations governing the incidental taking of marine mammals and inviting information, suggestions, and comments on USFWS's application and request.

DATES: Comments and information must be received no later than [insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: Comments on the application should be addressed to Tammy Adams, Acting Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225. The mailbox

address for providing email comments is ITP.Laws@noaa.gov. Comments sent via e-mail, including all attachments, must not exceed a 10-megabyte file size.

FOR FURTHER INFORMATION CONTACT: Ben Laws, Office of Protected Resources, NMFS, (301) 427-8401.

SUPPLEMENTARY INFORMATION:

Availability

A copy of USFWS's application may be obtained by writing to the address specified above (see ADDRESSES), telephoning the contact listed above (see FOR FURTHER INFORMATION CONTACT), or visiting the internet at:

<http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications>.

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 et seq.) direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) if certain findings are made and regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for certain subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking are set forth.

NMFS has defined ‘negligible impact’ in 50 CFR 216.103 as “an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.” Except with respect to certain activities not pertinent here, the MMPA defines ‘harassment’ as: “any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].”

Summary of Request

On January 27, 2012, NMFS received a complete application from USFWS requesting authorization for take of four species of marine mammals incidental to sturgeon research conducted by and in collaboration with USFWS. The requested regulations would be valid for 5 years from the date of issuance. As a result of this research, it is possible that marine mammals may be entangled in gill nets, resulting in injury, serious injury, or mortality. Because the specified activities have the potential to take marine mammals present within the action area, USFWS requests authorization to take bottlenose dolphins (Tursiops truncatus), Atlantic spotted dolphins (Stenella frontalis), pantropical spotted dolphins (S. attenuata), and striped dolphins (S. coeruleoalba).

Specified Activities

The USFWS is working with NMFS, the U.S. Geological Survey, and other partners on several wide-ranging projects across inshore waters of the Gulf of Mexico in designated critical habitat areas for the Gulf sturgeon (Acipenser oxyrinchus desotoi). The Gulf sturgeon was listed

in 1991 as threatened under the Endangered Species Act. Sturgeon research projects include: (1) a Natural Resource Damage Assessment (NRDA) project entitled “Mississippi Canyon 252 Assessment Plan for the Collection of Data to Determine Potential Exposure and Injuries of Threatened Gulf Sturgeon”; (2) an annual summer and fall census; and (3) fine-scale movement and habitat assessment within and nearby Choctawhatchee Bay, FL. Sampling locations will occur in Florida, Mississippi, and Louisiana, throughout the Pearl, Pascagoula, Escambia, Yellow, Blackwater, Choctawhatchee, Apalachicola, and Suwannee rivers and their associated bays near the river mouths.

These research projects involve the use of gill nets to capture sturgeon in order to assess physical condition, implant telemetry transmitters, and collect census information, among other objectives. The USFWS recorded two deaths of bottlenose dolphins in 2011 as a result of entanglement and subsequent asphyxiation in gill nets deployed for sturgeon research – the only two records of interactions with marine mammals in 26 years of USFWS survey effort. Since that incident, USFWS has begun implementing avoidance measures designed in consultation with NMFS. Although entanglement of marine mammals in gill nets deployed for sturgeon research is extremely rare, and the likelihood of such an event is further reduced by the use of avoidance measures, the possibility remains that USFWS could incidentally take marine mammals in the course of conducting future sturgeon research.

A more detailed description of the sturgeon research conducted by USFWS may be found in USFWS’ application, which is available at:

<http://www.nmfs.noaa.gov/pr/permits/incidental.htm>.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning USFWS's request (see ADDRESSES). All information, suggestions, and comments related to USFWS's request and NMFS' potential development and implementation of regulations governing the incidental taking of marine mammals by USFWS will be considered by NMFS in developing, if appropriate, regulations governing the issuance of letters of authorization.

Dated: April 4, 2012.

Helen M. Golde,
Acting Director,
Office of Protected Resources,
National Marine Fisheries Service.

[FR Doc. 2012-8602 Filed 04/09/2012 at 8:45 am; Publication Date: 04/10/2012]